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Australian Consumers Association

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Financial Services Consumer Policy Centre (UNSW)

**Preliminary submission to Senate Select Committee
on Superannuation and Financial Services Inquiry
into**

**Superannuation Legislation Amendment (Choice of
Superannuation Funds) Bill 2002**

Introduction

The concept of choice of superannuation fund for employees has been at the centre of policy debate within legislative, consumer and industry circles for the past four years.

The philosophy underpinning the introduction of the choice regime is an economically driven prescript reasoning that developed markets such as Australia's financial services market are at their most efficient when left to compete for business. Hence it was using this 'supply side' logic that the Financial Systems Inquiry (1996) proposed:

Employees should be provided with choice of fund , subject to any constraints necessary to address concerns about administrative costs and fund liquidity. Where superannuation benefits vest in a member, that member should have the right to transfer the amounts to any complying fund. Where a member chooses to exercise that right, payments should be transferred to the chosen fund as soon as practicable, subject to controls necessary to maintain orderly management for the benefit of fund members.

Transfer costs, including those incurred as a result of regulatory requirements, should be transparent and reasonable.

Under current arrangements, workers covered under Federal and most State Awards have very limited access to choice of fund. Hence, there exists virtual mandated industry monopolies whereby an entire given industries with work forces numbering in the hundreds of thousands have their prescribed superannuation guarantee automatically lodged into a complying fund. Those workers' superannuation guarantee is invested in a prescribed superannuation fund regardless of returns on their investment and fees and charges.

Since the introduction of mandated superannuation in 1992, this system has been highly efficient as it provided workers with universal access to superannuation which for so long had been an exclusive entitlement for privileged workers. The new arrangements have been highly effective as the majority of the 'industry funds' have been performing adequately with low overheads, a low fee structure and until very recently, competitive crediting rates and returns on investments.

The 'Superannuation Guarantee' has been very successful in seeing that the overwhelming majority of Australian workers are in some sort of superannuation scheme. Whilst embracing the provision of mandated superannuation and in particular the efficient efficiency generated by 'industry funds', we are now of the view that 'its time to move on' and allow for the provision of a choice of funds regime.

Why Choice?

With the current superannuation arrangements seemingly working well, we must ask: Why the move to superannuation choice of fund?

In answer, it is only due to the relatively small amounts of money which have been building up in members accounts as a result of compulsory superannuation contributions that fund members have been satisfied with current arrangements. However, those amounts are exponentially increasing and will keep doing so in perpetuity. Consequently, it is self evident that as members accounts grow, so will the active interest which they will exercise in their investments. Indeed, there is already evidence suggesting that for a majority of Australians, more money is vested in their superannuation accounts than they have ever saved. As such, Australian consumers are demanding that they be given a say in where they invest their money. This is especially the case for those consumers suffering as a result of poor returns on their investment. The right of consumers to invest their money in the most appropriate way is not currently being granted to the vast majority of Australians.

Consumers support having a choice in which fund their money is invested as it enhances competition which can potentially reduce costs, increase returns on their investment and ultimately enhance their retirement incomes. The provision of superannuation choice of fund is a logical extension in the drive to enhance consumer sovereignty.

The Bill 2002

We broadly support the content of the Bill, however we also recognise that there are some points that require clarification.

Life Insurance

In line with consumer expectations, the Bill identifies 'default funds' as requiring to belong to a life insurance scheme. However, its essential that the Bill clarify the matter of life insurance liability for new workers being offered choice of fund.

Fears have been raised regarding the 56 day period before a worker makes a choice, and the implication of this same worker either dying or suffering a permanent disability. Questions such as 'who will be responsible for insuring this worker if she/he dies prior to making an active choice'? 'What if no premiums have been paid'? and 'what if most of the workers in a certain work place have all made active choices which differed from the award default fund'? We recognises the pertinence of those questions and suggests the following:

- Cover should exist from the date the person commences work. This can be done either through an obligation being placed on employers to immediately pay insurance premiums or to continue the current system of automatic acceptance.

If an employee dies before selecting superannuation fund , then:

- A. The employer is still liable to pay their superannuation guarantee into the prescribed fund, and thereby also covering the life insurance premium;

- B. It is assumed that there is automatic acceptance, so the person would have been accepted by the insurer in any event;
- C. If the insurance premiums are deducted from the superannuation guarantee, then no issue of writing complex small cheques exist (as has been suggested);
- D. If the employer pays separately, then presumably they will have some regular arrangement with the insurer of the fund to do this;
- E. It may be necessary to have some legal arrangement to cover this situation, for example, providing that the employer holds premiums on trust for the employees for the first eight weeks of employment.

Many of the fears amongst insurers are premised on their being a flight of workers in and out of various funds and hence impairing the precarious balance which currently exists. While acknowledging the long term potential for such a manifestation; we are confident that critical-mass of inter-fund movement is not likely to occur for a number of years to come. Taking into account the limited financial education of a majority of the Australian workforce, we envisage that there will be very limited initial inter-fund movement, thereby guaranteeing a critical mass by which economies of scale are achieved.

Some issues could arise where superannuation funds and insurers may have to meet a benefit claim for an injured or deceased worker who happens to die prior to making an active choice. They may be totally unknown to the fund or insurer. Yet, the fund and insurer may still have to meet any insurance claim. We take the view that being granted default fund status will be a much sought after position. This will automatically guarantee the entry of thousands of new members every year into the default fund. With that, we regard the benefits gained from being selected as a default fund as far outweighing any potential risks.

Consequently, we propose:

- Automatic acceptance for all new employees (need to further address issues concerning workers who have had previous TPD claims);
- Compulsory cover by way of an amount of premium per week (rather than a fixed level of cover with the premium calculated as a result); and
- The inclusion of both death and TPD (issues concerning members switching to default funds to take advantage of insurance open to further negotiation).

Default funds

We strongly support the concept of default funds being selected by industrial agreements. This method of selection, guarantees that employers are in no position to bring about undue influence in choosing to select default funds which best suits the business as opposed to a default funds which best suits workers.

Consultation

We are concerned that consultation in formulating this Bill was only carried out with industry and "those representing employee interests". There was no systemic consultation with consumer and community groups and hence some very important issues dealing with consumer protection, education and fees have been omitted from the Bill.

Conclusion

This submission provides is a brief outline of our support for the provision of a choice of fund regime. However, our support is critical is and is premised on several provisions being also included. This includes:

- Capping fees and charges;
- The provision of a standard fees structure and disclosure;
- The elimination of exit and entry fees;
- The provision of a thorough consumer education program and the establishment of an independent agency jointly funded by government and industry; and
- Providing the Superannuation Complaints Tribunal with greater powers and more effective resources.

This list of proposals is not exhaustive, however, we believe that meeting those suggestion will go a considerable way in seeing that the introduction of a choice of fund regime is efficient and in line with consumer expectations.